

**REMARKS**

This paper responds to the outstanding office action mailed September 26, 2006. A three (3) month extension of time is submitted herewith, together with a request for continued examination.

Claims 15-16, 18 and 20-25 have been rejected under 35 USC 103(a) as unpatentable over - Goldszmidt et al., U.S. Patent No. 6,195,680, and Lumelsky et al., U.S. Patent No. 6,377,996. Goldszmidt et al. teaches a client-based system for fault tolerant delivery of real-time or continuous media streams wherein the client can automatically detect a stream failure (or load imbalance) and dynamically switches to a secondary server. The selection of the secondary server is carried out by a “control server” and not the client itself. (See, e.g., Figure 4, step 4.4 and step 4.5, and Figure 5, step 5.5 and 5.6). The Examiner also correctly notes that this reference does not disclose “(a) creating a buffer; (b) receiving from the first server and caching in the buffer advanced portions of the media stream; (c) issuing a request to the second server to initiate delivery of the media stream at a given offset; and (d) rendering the advanced portions of the media stream.” The Lumelsky et al. patent also describes the basic function of switching a media stream source (from a primary server to a secondary server). This is accomplished using a synchronizer unit 380 to search and locate segmentation markers, together with a switch decision unit 365 that is used to evaluate a degree of stream overlap. In Lumelsky et al., the switch is accomplished once the degree of stream overlap is deemed sufficient.

Respectfully, the prior art does not disclose or suggest the following subject matter, which is used to facilitate the stream switch:

“(a) creating a buffer; (b) receiving from the first server and caching in the buffer advanced portions of the media stream; (c) issuing a request to the second server to initiate delivery of the media stream at a given offset; and (d) rendering the advanced portions of the media stream [until] the given offset is reached, at which the switch occurs.”

To further this examination, claim 15, the only independent claim, has been further amended to describe the technique used by the client side code to identify and select the server to which the client media player switches. In Goldszmidt et al., a control server (not the client) selects the alternative server; in Lumelsky et al., the current server (together with a directory service) makes this determination (see Figure 9B and the accompanying text). While Goldszmidt

et al. makes a passing reference (see Column 10, lines 49-64) to having the client “assist in the secondary server selection process,” neither reference discloses or suggests the specific (client-based) “request-response” testing technique in which this is accomplished, as now positively recited:

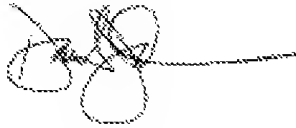
5           “issuing a request to each of a set of servers and receiving a response to the request, and using data associated with the request from each of the set of servers to identify a given server in the set of servers.”

10           The client side testing feature is described on page 11, lines 3-12 of the written description. This testing feature, in combination with the stream switch functionality, describes allowable subject matter.

Dependent claims 27-31 define further features of the client- based testing method.

A Notice of Allowance for claims 15-16, 18 and 20-31 is respectfully requested.

Respectfully submitted,



15

By: \_\_\_\_\_  
David H. Judson, Registration No. 30,467

ATTORNEYS FOR APPLICANT

20